

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**August 4, 2005**

**IN RE:**

**PETITION FOR APPROVAL OF TENNESSEE  
WASTEWATER SYSTEMS, INC, TO EXPAND  
ITS SERVICE AREA TO INCLUDE A PORTION  
OF COCKE COUNTY, TENNESSEE, KNOWN AS  
MARVIN KEYS RV PARK**

)  
)  
)  
)  
)  
)  
)

**DOCKET NO.  
05-00071**

---

**ORDER APPROVING PETITION TO AMEND  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

---

This matter came before Director Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on June 13, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority expand its service area to include a portion of Cocke County, Tennessee known as Marvin Keys RV Park.

**Legal Standard for Granting Certificate of Public Convenience and Necessity**

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a Certificate of Public Convenience and Necessity ("CCN") evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application

and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . . .

## **Background**

On April 6, 1994, Tennessee Wastewater Systems, Inc.<sup>1</sup> (“TWS” or “Company”) received a CCN in Docket No. 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The Company’s principal office is located in Nashville, Tennessee.

TWS filed the *Petition* in this matter on March 14, 2005. The Authority issued Data Requests on March 22 and April 8, 2005. TWS provided responses to the Data Requests in a timely manner. TWS filed the Pre-filed Direct Testimony of Charles Pickney, Jr. on May 25, 2005.

## **The Petition**

On March 14, 2005, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Cocke County, Tennessee known as Marvin Keys RV Park. TWS attached several letters to its *Petition* in support of its request to expand its service area. First, TWS attached a letter from the developer expressing its desire that TWS provide service to the property. Second, TWS attached letters from each of the two other potential wastewater service providers stating that each does not presently provide service to the area. The letters also indicate that neither of the other potential wastewater service providers intends to extend

---

<sup>1</sup> Tennessee Wastewater Systems, Inc. was formerly known as On-Site Systems, Inc. This name change was effected by the TRA’s order of February 19, 2004, in Docket No. 03-00518

wastewater service to Marvin Keys RV Park.<sup>2</sup>

### **Rate Schedules**

The Company also attached rate schedules listing the Company's commercial sewer rates (with and without food service), a listing of the Company's sewer systems with commercial customers and a service area map showing the proposed location of Marvin Keys RV Park.<sup>3</sup>

The monthly commercial rate, without food service, will be based on the design flow expected from the type of establishment being served. A minimum of seventy-five dollars (\$75.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site<sup>4</sup> will have a seventy-three dollar (\$73.00) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of fifteen dollars (\$15.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drnp/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$140.00	\$165.00	N/A
Lagoon	\$116.00	\$140.00	N/A
Off Site	N/A	N/A	Pass- Through Costs+ \$73.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred sixteen dollars (\$116.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

---

<sup>2</sup> See *Petition* (unnumbered attachments) (March 14, 2005) Letter from Marvin Keys, MKJ Properties, Inc to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (February 14, 2005), Letter from Carrol L Proffitt, Wastewater Manager for Newport Utilities (January 10, 2005), Letter from Iliff McMahan, Jr , Cocke County Mayor, to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (January 11, 2005).

<sup>3</sup>*Petition*, (unnumbered attachments) (March 14, 2005)

<sup>4</sup> Off site means the treatment and disposal is performed by another entity

Excess water usageSurcharge

1 gallon to 1,000 gallons above expected design flow	\$175.00
1,001 gallons to 2,000 gallons above expected design flow	\$200.00
Over 2,000 gallons above expected design flow	\$200.00/1,000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

The monthly commercial rate, with food service, will be based on the design flow expected from the type of establishment being served. A minimum of one hundred dollars (\$100.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site will have a ninety-four dollar (\$94.00) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of eighteen dollars (\$18.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$170.00	\$192.00	N/A
Lagoon	\$142.00	\$163.00	N/A
Off Site	N/A	N/A	Pass-Through Costs+\$94.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred forty-two dollars (\$142.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

Excess water usage

Surcharge

1 gallon to 1,000 gallons above expected design flow	\$210.00
1,001 gallons to 2,000 gallons above expected design flow	\$220.00
Over 2,000 gallons above expected design flow	\$220.00/1,000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

Other commercial fees include a five percent (5%) fee for non-payment, a disconnection fee of ten dollars (\$10.00), a reconnection fee of fifteen dollars (\$15.00) and a returned check fee of twenty dollars (\$20.00).

**The June 13, 2005 Hearing**

Pursuant to Tenn. Code Ann. § 65-4-201(a) public notice of the Hearing in this matter was issued by the Hearing Officer on May 10, 2005. No person sought intervention prior to or during the Authority Conference. At the Authority Conference held on June 13, 2005, Ms. Brandy Pruitt, Office Administrator for TWS, participated, presented testimony and was subject to examination by the Panel. Ms. Pruitt adopted the Pre-Filed Testimony of Mr. Charles Pickney, Jr. as her own at the Authority Conference.<sup>5</sup> The Pre-Filed Testimony states that the Company has the managerial, technical and financial ability to provide wastewater services to Marvin Keys RV Park.<sup>6</sup> Additionally, the Panel took administrative notice of TWS's 2004 annual report filed with the Authority. At the time of the Authority Conference TWS had not yet received a final approved permit from the Tennessee Department of Environment and Conservation for the system.<sup>7</sup>

---

<sup>5</sup> Transcript of Authority Conference, p 41 (June 13, 2005)

<sup>6</sup> Charles Pickney, Jr., Pre-Filed Testimony, p 1 (May 25, 2005)

<sup>7</sup> Transcript of Authority Conference, p 41 (June 13, 2005)

Upon the presentation of the Company's proof, the evidentiary record as a whole and in light of the legal standard set forth in Tenn. Code Ann. § 65-4-201(a), Director Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones voted unanimously to grant provisional approval of the *Petition* subject to receipt of a final approved permit from the Tennessee Department of Environment and Conservation evidencing its approval of the Company's application to provide service to Marvin Keys RV Park.

**IT IS THEREFORE ORDERED THAT:**

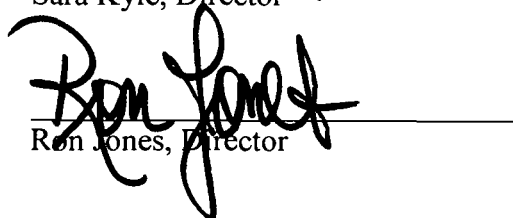
1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Marvin Keys RV Park in Cocke County, Tennessee, as shown in the map attached to the *Petition* is provisionally approved subject to receipt of a final approved permit from the Tennessee Department of Environment and Conservation.
2. The Petitioner's rates for wastewater service shall be as listed in the rate schedules filed with the *Petition* and as set forth in this Order.
3. The provisional approval granted herein shall become final upon Petitioner filing in this Docket a copy of the final approved permit evidencing the Tennessee Department of Environment and Conservation's approval of Tennessee Wastewater Systems, Inc.'s application to provide service to Marvin Keys RV Park.



Deborah Taylor Tate, Director



Sara Kyle, Director



Ron Jones, Director